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April 21, 2008

Honorable Harold Baer, Jr.
 United States District Judge
 500 Pearl Street
 Chambers 2230
 New York, N.Y. 10007

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APR 21 2008

HAROLD BAER
 U.S. DISTRICT JUDGE
 S.D.N.Y.

By Fax: 212-805-7901

RE: Manganiello v. City of New York, et. al.
 Civil Action No.: 07 CV 3644

Dear Judge Baer:

We represent Plaintiff in the above referenced matter. We write to request an order summarily denying defendants' motion for summary judgment, or in the alternative staying defendants' motion until a reasonable time after Ms. Scaccia has been produced or in the alternative an order extending Plaintiff's time to oppose same.

The reason for this request is that the defendants' motion relies heavily on the contention that the independent judgment of the prosecutor breaks the casual connection between any misconduct and the prosecution, among other things. However despite two court orders to produce the A.D.A, defendants have failed to do so. On February 11, 2008, the undersigned issued a subpoena for the deposition of A.D.A. Christine Scaccia. The undersigned was contacted by defense counsel who represented that she was representing A.D.A. Scaccia and would not be producing her on February 28, 2008. The Court ordered defendants to produce Ms. Scaccia prior to the discovery deadline by endorsement on the undersigned's letter dated March 7, 2008. During a telephone conference on April 11, 2008, the Court again directed the defendants to produce Ms. Scaccia by the 25th. This morning I again called defense counsel and she was unable to provide me with a date for Ms. Scaccia's deposition.

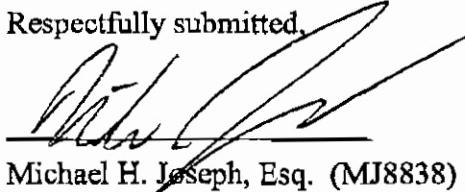
Defendants' motion currently requires Plaintiff's opposition to be filed by April 29, 2008. This is an obvious attempt to prevent Plaintiff from having Ms. Scaccia's deposition testimony for use in opposing the motion. It is fundamentally unfair to allow defendants to make []

this motion when they have interfered with Plaintiff's subpoena and prevented us from taking
Ms. Scaccia's deposition. The undersigned requested that defense counsel extend Plaintiff's time
to oppose the motion until after Ms. Scaccia's deposition can be taken and defense counsel has
refused to consent.

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Based upon the foregoing, it is respectfully requested that the Court summarily deny defendants' motion, or in the alternative stay defendants' motion for summary judgment until a reasonable time after Ms. Scaccia has been produced or in the alternative extend Plaintiff's time to oppose same.

Respectfully submitted,


Michael H. Joseph, Esq. (MJ8838)

C: Hillary Fromer, Esq.
By Fax: 212 788 9776

The A.D.A. Ms. Scaccia's deposition
has been scheduled & will take
place May 2 - It might have
been more convenient had you
let me in on it rather than provide
all this verbiage so that I called
the Chief last & advised attorney myself
& waited her turn + nine. The answer
to the M/S/I will be due May 15
any reply May 20 & the trial of case
will run the matter out of court
scheduled during the third week
to you.

SO ORDERED


Harold Baer, Jr. U.S.D.J.

Date: 4/23/08

Endorsement:

The ADA Ms. Scaccia's deposition has been scheduled and will take place May 2 - it might have been more considerate had you let me in on it rather than provide all this verbiage so that I called the Chief Assistant District Attorney myself and wasted her time and mine. The answer to the motion for summary judgment will be due May 15 any reply May 20 and the trial if you serve the motion will go as scheduled during the third week in June.